

AMENDED IN ASSEMBLY JUNE 25, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE APRIL 25, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1118

Introduced by Senator Hancock

February 17, 2012

An act to add Chapter 21 (commencing with Section 42985) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1118, as amended, Hancock. Solid waste: used ~~mattresses~~. *mattresses: recycling and recovery.*

Existing law requires a retailer of various specified products, such as rechargeable batteries and cell phones, sold in the state to have in place a system for the acceptance and collection of those products for reuse, recycling, or proper disposal.

~~This bill would require manufacturers of mattresses, on and after July 1, 2013, to establish and implement a program to collect and recycle used mattresses from consumers, as specified. The bill would also require a retailer, on and after July 1, 2013, in coordination with a manufacturer, to provide or arrange for the pickup of a used mattress from a consumer purchasing a new mattress. The bill would authorize the manufacturer, in lieu of establishing the program, to remit, on a voluntary basis, to the Department of Resources Recycling and Recovery a mattress recovery and recycling payment for each mattress sold in the state. The department would be required to establish the mattress recovery and recycling payment at an amount that is sufficient for, but~~

does not exceed, the department's costs of implementing a program to facilitate the recovery and recycling of used mattresses. The bill would require the moneys remitted to be deposited in the Mattress Recovery and Recycling Account, which the bill would establish in the Integrated Waste Management Fund. The bill would require moneys in the account, upon appropriation by the Legislature, to be expended by the department to implement that program.

This bill would establish the Used Mattress Recovery and Recycling Act and would require a manufacturer of mattresses sold in this state, individually, collectively, or through a designated third party, to submit a mattress recovery and recycling plan to the Department of Resources Recycling and Recovery by April 1, 2013. The bill would specify the requirements to be included in the plan, including provisions for meeting specified recycling targets and demonstrating achievement with those targets. The bill would require the department to review the mattress recovery and recycling plan and within 90 days of receipt to adopt a finding of the plan's compliance or noncompliance with the act.

The bill would require a retailer of mattresses, on and after July 1, 2013, to offer the consumer the option of picking up an equivalent used mattress, at the time of delivery, at no additional cost to the consumer.

The bill would prohibit a manufacturer or retailer from selling or offering for sale a mattress to any person in this state unless the manufacturer is in compliance with this chapter.

The bill would require a manufacturer submitting a mattress recovery and recycling plan to pay the department an annual administrative fee, as determined by the department.

The bill would require these fees to be deposited into the Mattress Recovery and Recycling Account, which the bill would establish in the Integrated Waste Management Fund. The bill would provide that the moneys in the account would be available for expenditure by the department, upon appropriation by the Legislature.

The bill would allow the department to impose an administrative civil penalty in specified amounts on a person who is in violation of the act. The bill would require the department to deposit all penalties collected into the Mattress Recovery and Recycling Penalty Account, which the bill would establish in the Integrated Waste Management Fund. The bill would provide that the moneys in the penalty account would be available for expenditure by the department, upon appropriation by the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 21 (commencing with Section 42985) is
2 added to Part 3 of Division 30 of the Public Resources Code, to
3 read:

4
5 CHAPTER 21. USED MATTRESS RECOVERY AND RECYCLING ACT

6
7 42985. (a) The Legislature finds and declares all of the
8 following:

9 (1) In order to reduce illegal dumping, increase recycling, and
10 substantially reduce public agency costs for the end-of-life
11 management of used mattresses, the Used Mattress Recovery and
12 Recycling Act is hereby established by this chapter to require
13 manufacturers of mattresses sold in this state to develop, finance,
14 and implement a convenient and cost-effective program to collect
15 and recycle used mattresses generated in this state.

16 (2) Consistent with existing state policy, the program developed
17 and implemented by manufacturers of mattresses sold in this state
18 shall be capable of the recovery and recycling of at least 75 percent
19 of used mattresses generated in this state annually on and after
20 January 1, 2020.

21 (b) This chapter shall be known, and may be cited, as the “Used
22 Mattress Recovery and Recycling Act.”

23 42986. For the purposes of this chapter, the following terms
24 have the following meanings:

25 (a) “Account” means the Mattress Recovery and Recycling
26 Account established pursuant to Section 42991.

27 (b) (1) “Manufacturer” means a person who manufactures or
28 renovates a mattress that is sold, offered for sale, or distributed
29 in the state under that person’s own name or brand.

30 (2) Manufacturer includes either of the following:

31 (A) The owner of a trademark or brand under which a mattress
32 is sold, offered for sale, or distributed in this state, whether or not
33 the trademark or brand is registered in this state.

34 (B) A person who imports a mattress into the United States that
35 is sold or offered for sale in the state and that is manufactured or

1 *renovated by a person who does not have a presence in the United*
2 *States.*

3 (c) *“Mattress” means a large thick pad of twin size or larger*
4 *filled with resilient material, including a pad incorporating coiled*
5 *springs, used as a bed or part of a bed, including, but not limited*
6 *to, an inner spring mattress, a foam mattress, and a box spring*
7 *and mattress used in conjunction with a futon frame.*

8 (d) *“Mattress recovery and recycling plan” or “plan” means*
9 *a plan submitted to the department pursuant to Section 42987.*

10 (e) *“Penalty account” means the Mattress Recovery and*
11 *Recycling Penalty Account established pursuant to Section 42991.*

12 (f) *“Recycle” or “recycling” has the same meaning as defined*
13 *in Section 40180.*

14 (g) *“Retailer” means a person who sells mattresses in the state*
15 *or offers to consumers mattresses in the state through any means,*
16 *including, but not limited to, by remote offering such as sales*
17 *outlets, catalogs, or offering through the Internet.*

18 (h) *“Used mattress” means a mattress that is no longer wanted*
19 *by its owner and is discarded or is intended to be discarded.*

20 42987. (a) *On or before April 1, 2013, a manufacturer of*
21 *mattresses sold in this state shall, individually, collectively, or*
22 *through a designated third party, submit a mattress recovery and*
23 *recycling plan to the department that meets the requirements of*
24 *this section.*

25 (b) *A mattress recovery and recycling plan shall include all of*
26 *the following:*

27 (1) *Provisions to ensure that when new mattresses are delivered*
28 *to a consumer, the consumer is given the option of having an*
29 *equivalent used mattress picked up for recovery at the time of*
30 *delivery, at no additional cost to the consumer or retailer, in*
31 *accordance with Section 42988.*

32 (2) *Arrangements when a mattress is sold to a consumer, for*
33 *the drop off of an equivalent used mattress at a recycling facility*
34 *at no additional cost to the consumer or retailer.*

35 (3) *Techniques designed to prevent and mitigate the illegal*
36 *discarding of mattresses.*

37 (4) *Arrangements for the pickup of used mattresses that have*
38 *been accepted at solid waste facilities and for the delivery of those*
39 *used mattresses to a recycling facility.*

1 (5) Policies to ensure there are adequate and convenient
2 opportunities for the collection, acceptance, and recovery for
3 recycling of used mattresses in low-income, rural, and other
4 communities where illegal dumping of mattresses has been a
5 historical problem.

6 (6) Provisions designed to meet the following recycling targets
7 and methods for demonstrating the achievement of the following
8 recycling goals:

9 (A) On and after January 1, 2015, recycle not less than 25
10 percent of the used mattresses generated in this state.

11 (B) On and after January 1, 2017, recycle not less than 50
12 percent of the used mattresses generated in this state.

13 (C) On and after January 1, 2020, recycle not less than 75
14 percent of the used mattresses generated in this state.

15 (7) Provisions for a financial mechanism for implementing the
16 plan.

17 (c) A manufacturer, individually or through a designated third
18 party, may coordinate with local governments, solid waste
19 facilities, retailers, and mattress recyclers to achieve the purposes
20 of this chapter.

21 42988. On and after July 1, 2013, a retailer shall offer the
22 consumer the option to have an equivalent used mattress picked
23 up for recovery at the time of delivery, at no additional cost to the
24 consumer, if a new mattress is being delivered to the consumer. A
25 retailer may contract out to a third-party entity for the pickup of
26 used mattresses.

27 42989. (a) A manufacturer or retailer shall not sell or offer
28 for sale a mattress to any person in this state unless the
29 manufacturer of that mattress is in compliance with this chapter.

30 (b) A manufacturer is in compliance with this chapter if the
31 manufacturer complies with the following requirements:

32 (1) On or before April 1, 2013, submits a mattress recovery and
33 recycling plan to the department.

34 (2) On and after July 1, 2013, implements a plan that the
35 department has determined is in compliance with this chapter.

36 42990. The department shall review a mattress recovery and
37 recycling plan submitted pursuant to Section 42987 and within 90
38 days of receipt shall adopt a finding of the plan's compliance or
39 noncompliance with this chapter.

1 42991. (a) A manufacturer submitting a mattress recovery
2 and recycling plan shall pay the department an annual
3 administrative fee, as determined by the department.

4 (b) The amount of the administrative fee imposed pursuant to
5 subdivision (a) shall be established by the department for the
6 reasonable regulatory costs to the department incident to
7 performing any audits and inspections necessary to enforce the
8 provisions of this chapter and for the administrative enforcement
9 costs and adjudication thereof.

10 (c) In determining the amounts of the administrative fee imposed
11 pursuant to subdivision (a), the department may establish a
12 variable fee based on relevant factors, including, but not limited
13 to, the portion of mattresses sold in the state by individual
14 manufacturers, as compared to the total amount of mattresses sold
15 in the state by all manufacturers submitting a mattress recovery
16 and recycling plan.

17 (d) The administrative fees collected pursuant to this section
18 shall be deposited into the Mattress Recovery and Recycling
19 Account, which is hereby established in the Integrated Waste
20 Management Fund. Upon appropriation by the Legislature, moneys
21 in the account shall be expended by the department to implement
22 this chapter.

23 42992. (a) The department may impose an administrative civil
24 penalty on any person who is in violation of this chapter. The
25 amount of the civil penalty shall not exceed one thousand dollars
26 (\$1,000) per day, but if the violation is intentional, knowing, or
27 negligent, the department may impose a civil penalty of not more
28 than ten thousand dollars (\$10,000) per day.

29 (b) In assessing or reviewing the amount of a civil penalty
30 imposed pursuant to subdivision (a) for a violation of this chapter,
31 the department or the court shall consider all of the following:

32 (1) The nature and extent of the violation.

33 (2) The number and severity of the violation or violations.

34 (3) The economic effect of the penalty on the violator.

35 (4) Whether the violator took good faith measures to comply
36 with this chapter and the period of time over which these measures
37 were taken.

38 (5) The willfulness of the violator's misconduct.

39 (6) The deterrent effect that the imposition of the penalty would
40 have on both the violator and the regulated community.

1 (7) Any other factor that justice may require.

2 (c) The department shall deposit all penalties collected pursuant
3 to this section into the Mattress Recovery and Recycling Penalty
4 Account, which is hereby established in the Integrated Waste
5 Management Fund. Upon appropriation by the Legislature, moneys
6 in the penalty account shall be expended by the department to
7 implement this chapter.

8 ~~SECTION 1. Chapter 21 (commencing with Section 42985)~~
9 ~~is added to Part 3 of Division 30 of the Public Resources Code, to~~
10 ~~read:~~

11
12 ~~CHAPTER 21. USED MATTRESSES~~
13

14 ~~42985. For the purposes of this chapter, the following terms~~
15 ~~have the following meanings:~~

16 ~~(a) (1) “Manufacturer” means a person who manufactures or~~
17 ~~renovates a mattress that is sold, offered for sale, or distributed in~~
18 ~~the state under that person’s own name or brand.~~

19 ~~(2) Manufacturer includes either of the following:~~

20 ~~(A) The owner of a trademark or brand under which a mattress~~
21 ~~is sold, offered for sale, or distributed in this state, whether or not~~
22 ~~the trademark or brand is registered in this state.~~

23 ~~(B) A person who imports a mattress into the United States that~~
24 ~~is sold or offered for sale in the state and that is manufactured or~~
25 ~~renovated by a person who does not have a presence in the United~~
26 ~~States.~~

27 ~~(b) “Mattress” means a large thick pad filled with resilient~~
28 ~~material, including a pad incorporating coiled springs, used as a~~
29 ~~bed or part of a bed, including, but not limited to, an inner spring~~
30 ~~mattress, a foam mattress, and a box spring and mattress used in~~
31 ~~conjunction with a futon frame.~~

32 ~~(c) “Recycling” means a process by which discarded products,~~
33 ~~components, and byproducts are transformed into new, usable, or~~
34 ~~marketable materials in a manner in which the original products~~
35 ~~may lose their identity but does not include energy recovery or~~
36 ~~energy generation by means of combusting discarded products,~~
37 ~~components, and byproducts.~~

38 ~~(d) “Retailer” means a person who sells mattresses in the state~~
39 ~~or offers to consumers mattresses in the state through any means;~~

1 including, but not limited to, by remote offering such as sales
2 outlets, catalogs, or offering through the Internet.

3 (e) “Used mattress” means a mattress that is no longer wanted
4 by its owner and is discarded or is intended to be discarded.

5 42985.1. (a) Except as provided in Section 42985.2, on and
6 after July 1, 2013, a manufacturer shall establish and implement
7 a program to do all of the following:

8 (1) Provide and arrange for the pickup of used mattresses bearing
9 the manufacturer’s brand name from a person and, except as
10 provided in subdivision (c), at no cost to that consumer.

11 (2) Provide and arrange for the pickup of used mattresses at the
12 request of a public agency at no cost to the public agency.

13 (3) Ensure that the used mattresses are recycled to the maximum
14 extent feasible.

15 (b) On and after July 1, 2013, a retailer, in coordination with a
16 manufacturer, shall provide or arrange for the pickup of a used
17 mattress from a consumer purchasing a new mattress.

18 (c) A manufacturer or retailer may recover its costs of
19 implementing the program established pursuant to subdivision (a)
20 by incorporating a charge into the purchase price of the mattress.

21 42985.2. (a) (1) In lieu of establishing and implementing a
22 program pursuant to Section 42985.1, a manufacturer of a mattress
23 may voluntarily remit to the department a mattress recovery and
24 recycling payment for each mattress sold by the manufacturer in
25 the state.

26 (2) The department shall establish the mattress recovery and
27 recycling payment at an amount that is sufficient for, but does not
28 exceed, the department’s costs of implementing the recovery and
29 recycling program specified in subdivision (b).

30 (b) Moneys collected pursuant to subdivision (a) shall be
31 deposited into the Mattress Recovery and Recycling Account,
32 which is hereby established in the Integrated Waste Management
33 Fund. Upon appropriation by the Legislature, moneys in the
34 account shall be expended by the department to implement a
35 program to facilitate the recovery and recycling of used mattresses.